

1 RENE L. VALLADARES
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 Wendi L. Overmyer
5 Cristen C. Thayer
6 Nevada State Bar No. 12873
7 Assistant Federal Public Defenders
8 411 E. Bonneville, Ste. 100
9 Las Vegas, Nevada 89101
(702) 388-6577
Wendi_Overmyer@fd.org
Cristen_Thayer@fd.org

10 Attorneys for Edwin Fujinaga

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 Securities and Exchange
14 Commission,

15 Plaintiff,

16 v.
17 Edwin Yoshihiro Fujinaga, and MRI
18 International, Inc.,

19 Defendants,

20 and

21 CSA Service Center, LLC, The
22 Factoring Company, June Fujinaga,
23 and The Yunju Trust,

24 Relief Defendants.

25 Case No. 2:13-cv-01658-JCM-CWH

26 **Motion for extension of time for
Defendant Edwin Fujinaga's counsel
of record in *United States v.
Fujinaga*, D. Nev. 2:15-cr-00198-GMN-
NJK-1 to file objections to the
Receiver's motion for instructions
for the disposition of documents
recovered (ECF No. 577)**

27 **Certification:** This motion is timely filed under LR IA 6-1(a).

28 Counsel of record for Defendant Edwin Fujinaga in *United States v.
Fujinaga*, D. Nev. 2:15-cr-198-GMN-NJK-1, and *United States v. Fujinaga*, 9th

29 Cir. Nos. 19-10222 and 21-10155, request a 30-day extension to file objections

1 currently due on February 16, 2022, to the SEC Receiver’s motion for instructions
2 for the disposition of documents recovered pertaining to this case. ECF No. 577.
3 The new requested deadline for objections is March 16, 2022.

4 1. This is the first motion requesting an extension to file objections by
5 Defendant Edwin Fujinaga’s counsel of record in *United States v. Fujinaga*, D.
6 Nev. 2:15-cr-198-GMN-NJK-1, and *United States v. Fujinaga*, 9th Cir. Nos. 19-
7 10222 and 21-10155 to the SEC Receiver’s motion for instructions for the
8 disposition of documents recovered. ECF No. 577. The review and preservation
9 of the documents and hard drives seized, called “Estate Documents” by the
10 Receiver, are a central issue in Mr. Fujinaga’s pending consolidated direct
11 appeal.

12 2. In his pending consolidated direct appeal, Mr. Fujinaga seeks relief
13 from 20 counts of conviction and a 50-year sentence imposed on June 17, 2019,
14 following pretrial litigation and a 17-day jury trial for allegedly operating an
15 international fraud scheme involving over \$1.5 billion. The jury convicted Mr.
16 Fujinaga of eight counts of mail fraud, nine counts of wire fraud, and three
17 counts of money laundering. The contested 50-year sentence amounts to life
imprisonment for Mr. Fujinaga, who is 74 years old.

18 3. The direct appeal challenges the government’s failure to review the
19 “Estate Documents” consisting of over a decade of international financial and
20 business transactions, among other challenges. Extensive pretrial litigation and
21 hearings involved the “Estate Documents” at issue in the SEC Receiver’s present
22 motion, specifically the government’s *Brady* obligations to review and disclose
23 *Brady* material contained in the “Estate Documents.”

24 4. On February 5, 2021, in *Fujinaga*, D. Nev. 2:15-cr-198-GMN-NJK-1,
25 undersigned counsel filed a Motion for Order Requiring the Government to Fulfill

1 its Obligation to Preserve *Brady* Evidence (ECF No. 415), addressing the
2 disputed, unreviewed “Estate Documents” at issue in Mr. Fujinaga’s direct
3 appeal—the same documents that are also at issue in the SEC Receiver’s present
4 motion. The district court denied Mr. Fujinaga’s motion to preserve evidence on
5 May 14, 2021, without a hearing. Mr. Fujinaga timely appealed to the Ninth
6 Circuit, *United States v. Fujinaga*, 9th Cir. No. 21-10155. The Ninth Circuit
7 consolidated the appeal with his already pending direct appeal of his conviction.

8 5. In the consolidated appeal, Mr. Fujinaga asks the Ninth Circuit to:
9 vacate the district court’s order that would allow destruction of unreviewed
10 seized evidence; find the government violated its *Brady* duties, and vacate Mr.
11 Fujinaga’s convictions. Alternatively, Mr. Fujinaga asks the Ninth Circuit to
12 issue an injunction precluding destruction of the unreviewed seized items
13 pending final resolution Mr. Fujinaga’s consolidated appeals. Briefing in the
14 consolidated direct appeal was completed on December 21, 2021. App. Dkt. 85.

15 6. Today, February 16, 2022, the Ninth Circuit heard argument in Mr.
16 Fujinaga’s consolidated direct appeal, during which the parties addressed his
17 challenge to the government’s *Brady* obligations for the “Estate Documents” at
issue in the SEC Receiver’s present motion.

18 7. A 30-day extension for the filing of objections to the SEC Receiver’s
19 motion for instructions for the disposal of the “Estate Documents” is therefore
20 necessary due to preparations for oral argument in Mr. Fujinaga’s direct appeal,
21 to analyze the Receiver’s SEC position, and permit undersigned counsel to fully
22 research and address the ongoing multi-agency litigation in this case.

23 8. Mr. Fujinaga is in the custody of the Bureau of Prisons (BOP) at the
24 Victorville Medium II Federal Correctional Institution in California, with a
25 projected release date of July 5, 2061. Due to a recent national BOP prison

lockdown imposed January 31, 2022, inmates have been unable to receive or place legal calls.¹ The extension is thus also necessary for undersigned counsel to consult with Mr. Fujinaga regarding objections to the SEC Receiver’s motion.

4 9. On February 15, 2022, undersigned counsel contacted counsel for
5 the SEC Receiver, Attorney Michael F. Lynch, regarding any objections to this
6 extension. Undersigned counsel has not yet received a response.

For these reasons, Mr. Fujinaga requests this Court extend the deadline by 30 days for the filing of objections to the SEC Receiver's motion for instructions for the disposition of documents recovered (ECF No. 577). A proposed order is attached in compliance with LR IA 6-2.

Dated: February 16, 2022.

Respectfully submitted,
RENE L. VALLADARES
Federal Public Defender

By: /s/ Wendi L. Overmyer
Wendi L. Overmyer
Assistant Federal Public Defender

/s/ Cristen C. Thayer
Cristen C. Thayer
Assistant Federal Public Defender

Attorneys for Edwin Fujinaga in
D. Nev. No. 2:15-cr-198-GMN-NJK-1

¹ See Federal Bureau of Prisons, *Temporary Security Measures Update* (Feb. 8, 2022), available at https://www.bop.gov/resources/news/20220201_security_measures.jsp; see also Walter Pavlo, *Federal Bureau of Prisons on National Lockdown after Deadly Fights at USP Beaumont*, Forbes (Feb. 2, 2022), available at <https://www.forbes.com/sites/walterpavlo/2022/02/02/federal-bureau-of-prisons-on-national-lockdown-after-deadly-fights-at-usp-beaumont/?sh=e8d503b5af2e>.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Securities and Exchange Commission,

Plaintiff,

V.

Edwin Yoshihiro Fujinaga, and MRI International, Inc.,

Defendants,

and

CSA Service Center, LLC, The Factoring Company, June Fujinaga, and The Yunju Trust,

Relief Defendants.

Case No. 2:13-cv-01658-JCM-CWH

Order granting motion for extension
of time for Defendant Edwin
Fujinaga's counsel of record in
United States v. Fujinaga, D. Nev.
2:15-cr-00198-GMN-NJK-1 to file
objections to the Receiver's motion
for instructions for the disposition of
documents recovered (ECF No. 577)

IT IS HEREBY ORDERED that the February 16, 2022, deadline for the filing of any objections by Defendant Edwin Fujinaga’s counsel of record in *United States v. Fujinaga*, D. Nev. 2:15-cr-198-GMN-NJK-1, and *United States v. Fujinaga*, 9th Cir. Nos. 19-10222 and 21-10155 to the SEC Receiver’s motion for instructions for the disposition of documents recovered (ECF No. 577) is vacated and extended by 30 days until March 16, 2022.

Dated February 23, 2022.

James C. Mahan
UNITED STATES DISTRICT COURT JUDGE

Service Certificate

I certify that on February 16, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Nevada by using the appellate CM/ECF system. Participants that are registered CM/ECF users will be served by the appellate CM/ECF system. The following non-CM/ECF participants will be served by U.S. Mail: **Mr. Edwin Fujinaga**.

/s/ Cecilia Valencia
Federal Public Defender Employee